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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,871	08/28/2003	Hiroyuki Hagiwara	03500.014818.1	6363
5514	7590	08/10/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			CHEN, TIANJIE	
			ART UNIT	PAPER NUMBER
			2652	
DATE MAILED: 08/10/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/649,871	HAGIWARA, HIROYUKI
	Examiner	Art Unit
	Tianjie Chen	2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 July 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 5 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 5 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

Final Rejection***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Price et al (US 5,826,325) in view of Wirth (US 3,673,583).

Claim 5, Price et al shows an information recording and/or reading apparatus in Figs. 1-5, including: a base plate 15 (Column 2, line 56) having a notch 51 (Fig. 4) therein, a support plate 41 (Figs 2 and 3), a spindle motor having an inherent output shaft perpendicular to the base plate, the output shaft rotatably driving a disk 21; a head unit 31 including a motor 35 (Fig. 2; column 3, lines 2-3) supported on the support plate 41 by portion 43 (Fig. 4), and for determining a rotation position of a recording/reading head of the head unit about a rotary alignment axis (Column 3, lines 1-8; at the center of 47 in Fig. 2) parallel to the output shaft of the spindle motor; a vertical pivot shaft at the center of 47 extending parallel to the rotary alignment axis (Fig. 2; column 3, lines 22-28); and a pivot mechanism for pivoting the support plate 41, on which the head unit 31 is supported (Fig. 4), about the vertical shaft relative to the base plate, wherein at least a portion of the head unit passes through the notch 51 (Fig. 4).

Price et al does not explicitly show an encoder included in head unit and a moving stage, which mounts the spindle motor and a stage driving mechanism for driving said moving stage toward or away from the rotary alignment axis.

Wirth shows an information recording and/or reading apparatus, wherein an inherent encoder is included for indexing the position of the head (Column 3, line 28-32) and a moving stage 14 (Fig. 2) which mounts the spindle motor 18 and a stage driving mechanism 26+29+32 for driving said moving stage toward or away from the rotary alignment axis (Column 2, lines 36-38).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to include the encoder and the moving stage and driving mechanism taught by Wirth in to Price et al's device. The rationale is as follows: Applicant does not disclose any detail of the encoder. It is well known in the art that for precisely position the head on the disk, as taught by Wirth there must be some kind of encoder in the head unit for indexing the position of the head. One of ordinary skill in the art would have been expecting an encoder in Price et al's device; if not, one would add the encoder taught by Wirth into Price et al's device for indexing purpose. Wirth also teaches that the moving stage and the driving mechanism are used for controlling and adjusting the position of predetermined tracks on the disk with respect the head (Column 1, lines 59-61). One of ordinary skill in the art would have been motivated to add them for controlling and adjusting the position.

Response to Arguments

2. Applicant's arguments with respect to claim 5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tianjie Chen whose telephone number is 571-272-7570. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on 571-272-7579. The fax

phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen Tianjie
TIANJIE CHEN
PRIMARY EXAMINER